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ACCOUNTING INFORMATION
INDISPENSABLE SOURCE FOR
THE DISCOVERY OF TAX
EVASION IN THE FIELD OF
PRODUCTS SUBJECT TO EXCISE

Empirical
studies

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Abstract

The present article aims to highlight the kinds of tax evasion methods in the field of products subject to excise duty and the role of the tax inspection in combating them. The research reveals which are the most common methods of tax evasion, but it tries to discern the probable developments of the process. The article has in view the inexorable reality, namely that the ingenuity method of tax fraud increases with the emergence of the new rules or barriers to the fraud. Following the research carried out we found that the tax evasion phenomenon in the field of products subject to excise duty has currently a significant impact in the economic and social Romanian reality. In order to reduce the tax evasion phenomenon in the field of products subject to excise duty, it must set up a mechanism for monitoring, oversight and fiscal control as well as the amendment of legislation, the tax evasion being mainly a consequence of the inaccuracies or imperfection of laws.

1. Introduction

In the panel of the current and predicted fiscal policies, the article proposes to catch the manifestation forms of the tax evasion and fraud in the energy products field. Accounting is an important component of the informational managerial system through its role of quantification, processing and broadcasting of the information from an economic entity. This information allows for the decisional department to opt in a rational way between the alternative consumption of the available resources during the ongoing of the production and commercial activities.

Extremely noxious, paradoxically and reprobate phenomenon, the tax evasion was and is an unwelcome presence with different directions of development and incidents, in any country, regardless of size, level of development, mechanisms of governance or political system. The tax evasion in Romania reached the proportions of a social and economic phenomenon as a daily practice in all income generating fields, because most taxpayers resort to various methods of elusion in the books and payments concerning taxes.

If until 1989 the state control in the field of taxation has been exercised centrally, with ups and downs on which it is pointless to insist on this study, after the change of the political system, after the post-revolutionary unrest, when the gravity center has shifted from the economic to the political, in our country a real custom of tax evasion was imposed gradually but somehow firmly.

We might say that the Romanian taxpayer has had, in the last 23 years, a constant concern to avoid the tax obligations.

The phenomenon is reaching a relatively large size in Romania.

The present study does not propose, primarily, to provide the solutions to eradicate the tax evasion, but in the first place to identify the causes that favored the appearance and the development of this phenomenon in Romania, in the context that the tax evasion could be kept somewhat under control only through the deepening of these shortcomings and trying to eliminate them.

Our opinion is that this study will be helpful not only theoretically but also practically. The practitioners need to find the solutions for reducing the tax evasion phenomenon. This is a top priority, which will give our initiative a useful and practical interest.

In this context, the present study as relationship between it and the existing literature wishes to draw the attention of the taxpayer on its tax obligations – namely to support a part of public spending - and to prevent him about the damaging consequences that result from the violation of the

law obligation. It should be a legal instrument for the criminal liability for those who break the law.

2. Literature review on the subject matter

The documentary research in order to define the term of tax evasion in the energy products field was performed with the support of Ministry Of Public Finance – the tax audit activity as well as the documentation of the tax audit reports belong to National Agency for Tax Administration during 2009-2014.

We have also studied the Romanian legislation in the tax area, implemented by Law no. 571/2003 concerning the Tax Code and the Government Decision no.44/2004 regarding the application norms of the Tax Code, the Minister of Finance Order nr. 364/2009 on tax inspection and the Law no. 241/2005 concerning the prevention and combating of the tax evasion.

It has also been considered the specialty literature that treats the phenomenon of tax evasion and the underground economy.

In this area, the book:” Tax evasion for everyone” (Şaguna, Tutungiu, 1995) was taken as reference.

3. Materials and Methods

As a user of accounting information, the state appeals to the organization accounting in order to achieve the fiscal function.

In a country in which the physicality as a powerful influence upon accounting, like in Romania, the public accounting reports are the main source of information for determining tax liabilities. The data provided are used by the Fiscal Administration for establishing the taxable base for the determination of direct and indirect taxes. Modern businesses work towards making profit, and also to produce enough money to cover their operations and to avoid being unable to cover their expenses (Costi, Mateş and Boiţă, 2014).

In the economies in which accounting is connected to physicality, financial accounting is used as a control method by the Fiscal Administration. In this respect, an expense is considered deductible, fiscally speaking, only if it's registered in the accounting, on the basis of legal documents, taxation authorities having the right to check the organization accounting, in order to determine the fairness of the fiscal declarations.

The accounting program is one that provides accounting reports required by managers in their decision making, and its quality depends very much on the detection and notification of errors in accounting and the speed information is provided with (Boiţă, Costi and Anghelina, 2014). The analysis and management regarding the decrease of tax evasion in the energy products field can be managed more efficiently by monitoring actions, fiscal supervision and control as well as proposals for amendments to the normative acts. In legal

terms, the tax evasion is defined in the Law no. 87/1994 "the avoidance, by any means by the individuals and the Romanian and foreign legal entities called taxpayer, in whole or in part by the payment of taxes and other amounts due to the state budget, local budgets, social insurance budget and extra budgetary special funds [...] ". A result of the legislative discrepancies and given the evolution of the tax evasion, this has been amended through the Law no. 241/2005. Compared to the fiscal rules, at the level of taxpayer, the various tendencies and motivations to elude the tax obligations are manifested.

The tax evasion has reached such proportions in our country that it has become a daily presence in all income generating areas.

We could say without exaggeration that in the period after 1989, a social norm of tax evasion was imposed slowly.

The Romanian taxpayer, regardless of the financial position or social status is trying and is able most often to evade the tax payments.

Therefore there can be observed the tendencies of the same taxpayers, although prompt payers to the state, that see that some tax dodgers taxpayers haven't been detected by the authorities to enter the evasions area through applying the practices of these (Dedu, 2011).

The control is still the primary means to combat the tax fraud but for that it shall be based on the rigorous planning action on the clear and precise targets, on removing of the nominal approaches oriented to the checking of a minimal number of taxpayers and the discovery of a specific amount of the flow rate, the simple and quick actions excelling compared to the general checks. The performance of the simple and speedy actions, although necessary, does not have to be to the detriment of the investigation and verifications with increased technical difficulty. A tax evasion method in the energy products field, which has established since 1999, is based on the substitution of normal gas with airplane gasoline and the diesel oil with heating fuel. More exactly the action takes place as follows: a company is supplying from the refinery or imports with gasoline or diesel, but in the documents there are recorded other fuels (petrol airplane or heating fuel) for which the excises are not due. Because the airplane gasoline is not selling at the pump, the fuel is selling originally to some companies "ghost", then to come once again in the companies from where they started, this time under the real name. The unexcitable products have become in fact what they were, the excisable goods, but the payment obligation belongs - theoretically - to the "ghost" companies where the state does not collected any money. Another side of the business involves the import of energy products for "processing" or "inward processing" in order to subsequently re-export. The ones, who carry out

this, do not pay the excises, because the finished product is exported after processing according to the contractual clause. In fact it remains in the country where it is sold successively through the ghost companies. The excise taxes have been introduced in Romania, at the end of the year 1991, but their distinct and complex settlement was made by Law. 42/1993. This law establishes two concepts of the special consumption tax, excise taxes for some imported and domestic products and the tax for the domestic oil and natural gas production. For both tax forms is specific that they are due to a single phase of the economic circuit, by producers, importers or the acquirers and the rates or fixed amounts, are unique, for the domestic products but also for imported products. Based on the practical realities of tax evasion, we present further a few examples of tax fraud and the proposed measures to limit or eradicate the phenomenon in the energy products field:

- Based on the fact that the refineries did not have the capital for the purchase of raw materials needed for production, various companies have appeared on the market (whose shareholders were offshore companies) that imported oil in the refineries for processing, especially Steaua Rosie Câmpina, Astra Ploiesti, Darmanesti, Rafo Onesti, Suplacul de Barcau. The refineries were processing the raw material for a fee which covered some costs, particularly the salaries and thereby avoiding the work conflicts. After the processing companies which are liable for excise duty payment, came into possession of the finished products - gasoline and diesel, these were selling the goods to the various companies - usually "ghost that fueled the market. Soon, the society representatives disappeared, leaving enormous debts to the state budget, representing excise duties, and VAT profit tax. As measure, it has been imposed, even in the processing that the excise obligation payment to return to the refinery which performed this operation, and not to the oil importer.

As a consequence of this measure, the refineries restarted their own import circuit, so called importers -processors disappearing from the market, which induces the assumption that the representative's refineries were not strangers for these operations.

- From the analysis of the products supplied by refineries, it was found that a very large share was held from the diesel oil for agriculture and the airplane kerosene - products exempt from road tax. Following the goods circuit it was found out that they are not arrived in agriculture or in the aeronautical but also directly into economic circuit through the black market, through a chain of "ghost" companies and empirical operations of octane value addition and lowering. As measures there have been imposed the introduction of tax road in the excise duty for all users of fuel

and the road tax refund only for those that made the effectively evidence that they used the fuel in the agriculture or the aeronautical. As a result of this measure, the demand for products used in the agriculture and aeronautical was drastically reduced.

■ An another evasion chain was discovered by analyzing the deliveries unexcited refinery products, namely additives and solvents or the excisable goods supplied under the tax exemption to producers or users. It thus appears that the majority of end-user certificates, thought the large amounts of products under tax exemption were requested, were false, and the producers of paints that should be the main beneficiaries of acquisition of refinery additives and solvents are not real. Another indication was the actual amount of paint and varnish that could be produced from the raw materials from refineries. These not only exceeded the potential consumption of the internal market, but it would have been sufficient to cover the global demand. The action started with the observation of the storage tanks which were loaded from refineries with solvents and additives. Thus, we found out that the unexcited products arrived in the illegal additive systems and the diesel fuel mixtures come in the economic circuit through the ghost companies.

■ another way of evasion was stopped from an action which followed the delivery of a product from oil refineries, namely not emulsified oil. This, according to the standards, should be used for the cooling of the parts in the machining cutting process. Following the conducted observation it was found out that this product was inserted, through mixture, directly into the tanks of the industrial machinery (as fuel). It was surprisingly, the fact that, in order to achieve the cooling, this oil is supposed to have a very high flash point (above 600 ° C). Or, this product had a flash point of 63 ° C, similar to the heavy diesel equivalent for industrial hotspots. Knowing the fact that the heaviest oil, namely fuel oil, has the flash point of 87 ° C - this being an unexcited product, as a measure it was amended the law in such a way that all products, regardless of name, with the flash point less than 90 °, can be supplied from the refineries only to the producers or end-users authorized by the Minister of Public Finance. The delivery of such products from the refineries to other persons than those mentioned above, shall constitute an infraction, and as a complementary measure, we proposed and it was accepted the obligation for the producers in ordered to pay an excise equivalent to that of the unleaded petrol - the product with the highest level of excise.

■ another phenomenon was that the refineries have accumulated huge debts, consisting of the evidenced unpaid excise at the state budget. In these conditions it was imposed as a measure, that

the economic operator should be obligated to remit the excise value directly in the Treasury and not directly to the refinery. Otherwise, the act becomes infraction for the company that delivered the excised product. Such measure consisted in the increase, even the duplication of the collected amounts from petroleum products excises at the budget state.

4. Discussion

Economic criminality is the most dangerous component of the underground activity, taking the form of the activity of production, distribution and drug consume, arms and radioactive material trafficking, car theft, prostitution, human trafficking, corruption. An important characteristic of criminal activities is its organized character with multiple international connections. Their purpose is obtaining important incomes and placing them in the official economy, with consequences, sometimes irreversible, in the stability and economic policy of a country. In our country, the transition, after 1990, to the market economy and the multiplication of economic relations with foreign countries have led to the "import" of these new type of infraction from the occident, without a respond from the competent authorities. Without proper laws and with few experience in their instrumentation, while the main sanctions where applied for failure to fallow the accounting law², of seizures by law on illegal activities³, problems with the lack of operation permits, through or financial-banking system have taken place money laundering operation. With the law for prevention and sanction for money laundering⁴, starting from 21.04.1999, the problems related to it and to the tax evasion law⁵ started to highlight more relevant aspects. Determined as a relation between fiscal income and the internal net product, the growth of the taxes, even if not in all cases, is directly proportional to the increase in prices. This measure increases during commercial transport of goods, hitting the beneficiaries situated towards the end of the route. With this background, the underground economy has additional profits because:

- offers cheaper products, even if they are of questionable quality, because by avoiding to pay taxes, the clandestine producer affords prices that compete fraudulent the ones in the real economy;
- attracts new activities within its area because many extra burdened taxpayers choose as an option out the underground sector;
- having untaxed activities so uncontrolled income, it will create immediate opportunity for illegal labor, rent; the installation of spiral evasion being imminent;
- transactions are performed quickly in cash, without requiring bank transfers.

Conclusions

The improving of the efficiency in the preventing and combating of tax fraud is a must, to the extent that it distorts the economic activity and affects the quality of public services and social benefits. The perception that the tax system is unfair, the mistrust in the volume and quality of public services and the fact that the citizens do not associate the public revenues with the spending budget, there are the factors that make it difficult to fulfill spontaneous the tax obligations. The evolution of tax evasion in Romania has been an ascending one, reflected by the large amounts that are “stolen” from the public budget as well as through the ingenuity of the avoidance techniques. The fact is that these had a spectacular evolution, from the traditional tax evasion, which consists in the partial or complete avoidance of the tax payments, or through the incorrectly prepared documents required by the current legislation to the complex techniques. The means and the legal and administrative levers have been ineffective in combating this plague. The promotion of the strategic objectives of fiscal policies in parallel with the fiscal control efficiency should improve the tax discipline, should have the effect in increasing the collected taxes amounts and the reducing of the corruption and the increasing of the efficiency in the recovering of the amounts derived from the tax evasion. The civics grade of the taxpayers is one of the essential factors in the prevention and eradication of the tax fraud. Starting from the basic principle of equality in the administration of the tax revenues, the civic attitude of the taxpayer should be, in our opinion, the voluntary acceptance and the tax payments as a naturally fact, the quickly and efficiently collection of the unpaid taxes and the acceptance of the sanctions for the evasion behavior as normal. In order to reduce the tax evasion in the energy products field, it should be established a mechanism for monitoring, oversight and fiscal control as well as the amendment of the legislative acts. The suppression of the tax evasion phenomenon can be done through an adequate sanction of the guilty persons.

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